

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27

WHEREAS, City Staff periodically reviews the Ordinances and Unified Land Development Regulations (ULDRs) of the City of Wilton Manors, Florida and makes recommendations to the City Commission to revise its Ordinances and ULDRs; and

WHEREAS, a public entity, such as the City, is required to make available to applicants, participants, beneficiaries, and other interested persons information regarding how Federal Law applies to the City's services, programs, or activities; and

WHEREAS, the City Staff recommends that the City Commission amend the ULDR, as more specifically set forth herein, to provide a forward-facing reasonable accommodation process for the public and the City's use; and

1 **WHEREAS**, at its meeting of September 9, 2019, the Planning and Zoning
2 Board reviewed the City Staff's recommendations, conducted a public hearing, and has
3 determined them to be consistent with the Comprehensive Plan, the Land Development
4 Regulations and other Ordinances of the City of Wilton Manors, and recommended
5 approval of the revisions to the ULDR; and

6 **WHEREAS**, the notice and hearing requirements for adoption of this
7 Ordinance contained in the Florida Statutes and the City's Code of Ordinances have
8 been satisfied; and

9 **WHEREAS**, the City Commission of the City of Wilton Manors, Florida
10 deems it to be in the best interests of the citizens and residents of the City to amend the
11 ULDR as set forth herein.

12 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION**
13 **OF THE CITY OF WILTON MANORS, FLORIDA, THAT:**

14 **Section 1:** The foregoing "WHEREAS" clauses are hereby ratified as being
15 true and correct and are incorporated herein by this reference.

16 **Section 2:** Article 120 of the ULDR is amended as follows:

17 Sec. 120-010. - Applicability.

18 The PZB may grant a variance for any provision of the ULDR unless
19 otherwise indicated by provisions of these regulations. Variances may be granted only
20 in the case of an undue hardship caused by special circumstances relating to the
21 property for which the variance is sought, whereby the strict application of these
22 regulations would deprive the applicant of the reasonable use of land or building.

{00314602.8 2976-9201291}

CODING: Words in ~~strike through~~ type are deletions from existing law;
 Words in underlined type are additions.

1 The PZB is not authorized to review or grant variances which include a request
2 for reasonable accommodation for persons with disabilities. Such variance requests
3 shall be processed by City staff and the City Commission will make the decision as to
4 whether or not the variance will be granted, pursuant to Article 175 of the ULDR.

5 Sec. 120-030. - Variance application procedure.

6 (A) Planning and Zoning Board review of matters that do not include reasonable
7 accommodation requests.

8 (1) For matters that do not include reasonable accommodation requests, ~~The~~
9 PZB shall hold its public hearing and, after consideration of the staff recommendation
10 and public input, if any, may deny, approve or approve with conditions the application
11 for variance, based upon its determination that:

12 a. There are special circumstances or conditions applying to the
13 land or building for which the variance is sought, which circumstances or
14 conditions are peculiar to such land or building and do not apply generally to
15 land or buildings in the same district, and that said circumstances or conditions
16 are such that the strict application of the provisions of this chapter would
17 deprive the applicant of the reasonable use of such land or building for which
18 the variance is sought, and that alleged hardship is not self-created by any
19 person having an interest in the property;

20 b. The granting of the variance is necessary for the reasonable use
21 of the land or building and that the variance as requested is the minimum
22 variance that will accomplish this purpose;

{00314602.8 2976-9201291}

CODING: Words in ~~strike through~~ type are deletions from existing law;
 Words in underlined type are additions.

1 c. The granting the variance will be in harmony with the general
2 purpose and intent of this chapter and will not be injurious to the neighborhood
3 or otherwise detrimental to the public welfare.

4 (2) Approval of a variance request shall become null and void unless a
5 development permit pursuant thereto is issued within twelve (12) months of the date of
6 any such action by the PZB.

7 (3) In each case wherein action upon application for a variance is taken by
8 the PZB. the decision of the Board shall be recorded in the minutes of its meeting, and
9 thereafter the City Clerk shall prepare, an order to be entered to evidence the decision,
10 which shall set out with sufficient clarity the exact right and privilege given, a correct
11 legal description of the land and premises affected, and the decision made by the board.
12 One copy of the order shall be kept by the City Clerk to become a public record, one
13 copy shall be provided to the Department, and one copy forwarded to the applicant.

14 (4) Whenever the PZB has acted upon a variance for property, whether
15 approved or denied, the PZB shall not thereafter consider any further application for the
16 same or any other kind of variance for any part or all of the same property for a period
17 of one year. The above time limits may be waived by a majority vote of the board when
18 the board deems such action necessary to prevent injustice or to facilitate the proper
19 development of the City.

20 **Section 3:** Article 175 of the ULDR to be entitled "Reasonable
21 Accommodation" is created as follows:

1 ARTICLE 175 – REASONABLE ACCOMMODATION

2 175-010. In General.

3 (A) Purpose and Intent.

4 The purpose of this section is to implement a procedure for processing requests
5 for reasonable accommodation to the City's Code of Ordinances, Land Development
6 Regulations, rules, policies, and procedures for persons with disabilities, as provided by
7 Federal Fair Housing Act, Americans with Disabilities Act, Civil Rights Act, and the
8 Rehabilitation Act (collectively "Federal Law").

9 City staff is hereby authorized to develop and implement internal operating
10 procedures to carry out the provisions of this reasonable accommodation ordinance and
11 the provisions of Federal Law.

12 (B) Applicability.

13 Any person who is disabled, or qualifying entities, may request a reasonable
14 accommodation with respect to the City's ULDR, Code of Ordinances, rules, policies,
15 practices and/or procedures as provided by Federal Law pursuant to the procedures set
16 forth in this section. For purposes of this section, a "disabled person" is an individual
17 that qualifies as disabled and/or handicapped pursuant to Federal Law, as may be
18 amended from time to time. The word "individual" shall include, for purposes of this
19 section, multiple people or multiple qualified entities.

20 (C) Notice to the Public of Availability of Accommodation.

21 The City will provide notice to the public advising that individuals may request
22 a reasonable accommodation. Such notice may include, but is not limited to, displaying
23 a notice in the City's physical or electronic bulletin boards; providing hard copies of the
24 forms, policies, and procedures at various locations throughout City Hall; and verbally
25 advising individuals that they may request a reasonable accommodation.

26 The City's forms, policies, and procedures, as may be amended from time to
27 time, provide the specific information that is necessary to implement the general
28 policies in this section.

29 175-020. Submittal Requirements.

30 There is no fee to submit a request. A request by an applicant for reasonable
31 accommodation under this section may be either oral or written. The City has prepared
32 a reasonable accommodation request form for the public's use. The request form and all

{00314602.8 2976-9201291}

CODING: Words in ~~strike through~~ type are deletions from existing law;
Words in underlined type are additions.

1 forms related to this section are available from the City Clerk, Code Compliance, and
2 Community Development Services. Completed forms should be submitted to the City
3 Manager's Office.

4 (A) Confidential Information.

5 Should the information submitted by an applicant include medical information or
6 other confidential information, the individual may, at the time of submitting such
7 information, request that the City, to the extent permitted by law, treat such information
8 as confidential.

9 The City will honor the confidentiality request to the extent permitted by law. The
10 City has no obligation to initiate, prosecute, defend, or pursue any legal action related to
11 the confidentiality request, or to incur any legal or other expenses (whether by retention
12 of outside counsel or allocation of internal resources), in connection with any such legal
13 action.

14 The City will comply with any judicial order related to the records which are the
15 subject of a confidentiality request.

16 This section is subject to local, state, and federal revisions to privacy laws, including
17 but not limited to the Health Insurance Portability and Accountability Act (HIPAA), as
18 it may be amended from time to time.

19 (B) Fees.

20 The City will not impose a fee for processing a request for reasonable
21 accommodation or an appeal of a decision related to such request.

22 The City has no obligation to pay an applicant's attorney's fees or costs in
23 connection with a request or an appeal.

24 (C) City Assistance.

25 To ensure the process is accessible, the City will provide an applicant with
26 assistance and accommodation as required by Federal Law including, but not limited to,
27 assistance with reading application questions, responding to questions, completing the
28 form, filing an appeal, and appearing at a hearing.

29 175-030. Response to Reasonable Accommodation Request.

30 (A) In determining whether the reasonable accommodation request will be
31 granted or denied, the requesting party shall be required to establish that they are

{00314602.8 2976-9201291}

CODING: Words in ~~strike through~~ type are deletions from existing law;
Words in underlined type are additions.

1 protected under the FHA and/or ADA by demonstrating that they are handicapped or
2 disabled, as defined in Federal Law, as may be amended from time to time.
3

4 (B) The City of Wilton Manors will grant or deny the request within 30
5 calendar days after receiving all information and documentation from the requesting
6 individual. The City will not make a determination until all necessary information has
7 been received.

8 Should the City require additional time to make a determination, the City will
9 provide the requester the reasons for the delay within the timeframe the City otherwise
10 would have had to make a determination.

11 (C) If the reasonable accommodation request seeks a variance pursuant to
12 Article 120, such variance request shall be processed by City staff and the City
13 Commission will render the decision as to whether or not the variance will be granted.
14 City staff will process and render a decision on all other reasonable accommodation
15 requests which are not related to a variance.

16 175-040. Appeal.

17 If a reasonable accommodation request that is related to a variance is denied by the
18 City Commission, then pursuant to Article 75, Section 75-040, the final determination
19 of the City Commission is subject to judicial review in a court of competent
20 jurisdiction.

21 For all non-variance matters, in the event a reasonable accommodation request is
22 denied, individuals have a right to appeal and must do so in writing using the
23 "Application to Appeal Denial of Request for Reasonable Accommodation" form
24 within 30 calendar days of receipt of the letter of denial. Any appeal not timely filed as
25 set forth above shall be waived. Assistance in completion of the Appeal form will be
26 provided by City Officials if needed. The City of Wilton Manors will honor extensions
27 where there is good cause, including when an individual requests additional time as a
28 reasonable accommodation.

29 Individuals who appeal the denial of their non-variance reasonable accommodation
30 request will be provided a hearing with the City Commission. The hearing shall occur
31 within thirty (30) days of the receipt of the appeal, unless waived by the applicant, and a
32 written decision shall be rendered within twenty (20) days of the hearing. Individuals
33 requiring accommodations in order to participate in the hearing should contact the City
34 Clerk at 954-390-2123 as soon as possible, and no later than twenty-four (24) hours in
35 advance of the hearing to request such accommodation.

1 The official or employee whose action is being appealed shall prepare a written
2 statement to the City Commission covering the relevant issues involved and the sections
3 and subsections of local, state, or federal regulations governing same.

4 The City Commission may reverse or affirm wholly or partly, or may modify the
5 order, requirement, decision or determination appealed from, and may make such order,
6 requirement, decision or determination as ought to be made. The concurring vote of
7 four (4) members of the City Commission shall be necessary to reverse any order,
8 requirement, decision or determination of any administrative official or to decide in
9 favor of the applicant upon any matter which it is required to pass. If an application
10 does not receive four (4) affirmative votes upon roll call, the application shall be
11 considered as denied.

12 Pursuant to Article 75, Section 75-040, The final determination of the City
13 Commission is subject to judicial review in a court of competent jurisdiction.

14 175-050. Stay of Enforcement.

15 While an application for reasonable accommodation, or an appeal of a
16 determination of same, is pending before the City, the City will not enforce the subject
17 zoning ordinance, rules, policies, and procedures against the applicant.

18 175-060. Expiration of Approvals.

19 Approvals of requests for reasonable accommodation shall expire in one
20 hundred eighty (180) days if not implemented by the applicant.

21 **Section 4:** It is the intention of the City Commission, and it is hereby
22 ordained that the provisions of this Ordinance shall become and be made a part of the
23 Code and Ordinances of the City of Wilton Manors, Florida.

24 **Section 5:** All Ordinances and Resolutions or parts of Ordinances and
25 Resolutions in conflict herewith, be and the same are hereby repealed, to the extent of
26 such conflict.

Section 6: If any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

4 **Section 7:** This Ordinance shall become effective upon passage and
5 adoption.

6

7

8

9

10

11 *(Space intentionally left blank)*

12

13

14

15

16

17

18

19

20

21

1 PASSED ON FIRST READING BY THE CITY COMMISSION OF THE CITY OF
2 WILTON MANORS, FLORIDA, THIS 27th DAY OF August 2019.

3
4 PASSED AND ADOPTED ON SECOND AND FINAL READING BY THE CITY
5 COMMISSION OF THE CITY OF WILTON MANORS, FLORIDA THIS 7th
6 DAY OF October, 2019.

7
8 CITY OF WILTON MANORS, FLORIDA

9
10 By: Justin S. Flippen
11 JUSTIN S. FLIPPEN, MAYOR

12
13
14
15 ATTEST:

RECORD OF COMMISSION VOTE: 1ST
Reading

16
17 Faith Lombardo
18 FAITH LOMBARDO
19 CITY CLERK

MAYOR FLIPPEN
VICE MAYOR GREEN
COMMISSIONER CARSON
COMMISSIONER RESNICK
COMMISSIONER ROLLI

Aye
Aye
Aye
Absent
Absent

20
21
22
23
24 I HEREBY CERTIFY that I have
25 approved the form of this Ordinance.

26
27 Kerry L. Ezrol, Esq.
28 KERRY L. EZROL, ESQ.
29 CITY ATTORNEY

30
31 RECORD OF COMMISSION VOTE: 2ND
32 Reading

33
34 MAYOR FLIPPEN
35 VICE MAYOR GREEN
36 COMMISSIONER CARSON
37 COMMISSIONER RESNICK
38 COMMISSIONER ROLLI

Aye
Aye
Aye
Absent
Aye